

**TOWN OF FOUNTAIN HILLS
MINUTES OF THE EXECUTIVE AND REGULAR SESSIONS OF THE
FOUNTAIN HILLS TOWN COUNCIL
FEBRUARY 18 2016**

EXECUTIVE SESSION

*** CALL TO ORDER AND PLEDGE OF ALLEGIANCE**

Mayor Kavanagh called the Executive Session to order at 5:07 p.m. in the Fountain Conference Room - 2nd Floor.

AGENDA ITEM #1 - ROLL CALL AND VOTE TO GO INTO EXECUTIVE SESSION:

Present for roll call were the following members of the Town Council: Mayor Linda Kavanagh, Vice Mayor Henry Leger, Councilmember Dennis Brown, Councilmember Nick DePorter, Councilmember Cecil Yates, and Councilmember Cassie Hansen. Town Manager Grady E. Miller, Director of Development Services Paul Mood, Chief Building Official Jason Field, Town Attorney Andrew McGuire, and Town Clerk Bevelyn Bender were also present. Councilmember Alan Magazine was absent.

PURSUANT TO (1) A.R.S. § 38-431.03(A)(3), DISCUSSION OR CONSULTATION FOR LEGAL ADVICE WITH THE ATTORNEY OR ATTORNEYS OF THE PUBLIC BODY, AND (2) A.R.S. § 38-431.03(A)(4), DISCUSSION OR CONSULTATION WITH THE ATTORNEYS OF THE PUBLIC BODY IN ORDER TO CONSIDER ITS POSITION AND INSTRUCT ITS ATTORNEYS REGARDING THE PUBLIC BODY'S POSITION REGARDING CONTRACTS THAT ARE THE SUBJECT OF NEGOTIATIONS, IN PENDING OR CONTEMPLATED LITIGATION OR IN SETTLEMENT DISCUSSIONS CONDUCTED IN ORDER TO AVOID OR RESOLVE LITIGATION (SPECIFICALLY, (i) THE MORNINGSTAR PROJECT AND (ii) THE PARK PLACE DEVELOPMENT AGREEMENT),

Councilmember Brown **MOVED** to go into Executive Session at 5:07 p.m. and Councilmember DePorter **SECONDED** the motion, which **CARRIED UNANIMOUSLY** (6-0), by those present.

Mayor Kavanagh stated that the Executive Session would reconvene after the adjournment of the Regular session and the Executive Session was recessed without objection at 6:25 p.m.

REGULAR SESSION

*** CALL TO ORDER AND PLEDGE OF ALLEGIANCE**

Mayor Kavanagh called the meeting to order at 6:35 p.m. in the Town Hall Council Chambers.

*** INVOCATION** - is Father John LesCallett, Anglican Church of the Atonement.

*** ROLL CALL** - Present for roll call were the following members of the Town Council: Mayor Linda Kavanagh, Vice Mayor Henry Leger, Councilmember Nick DePorter, Councilmember Cecil Yates, Councilmember Cassie Hansen, and Councilmember Dennis Brown. Town Manager Grady E. Miller, Town Attorney Andrew McGuire and Town Clerk Bevelyn Bender were also present.

Councilmember Alan Magazine was absent.

* **SCHEDULED PUBLIC APPEARANCES/PRESENTATIONS**

Mayor Kavanagh read proclamation recognizing Jackie and Jerry Miles and all their contributions to the Town and proclaimed February 20, 2016, as Jackie and Jerry Miles Day in the Town.

* **MAYOR'S REPORT**

i) **Mayor Kavanagh may review recent events attended relating to Economic Development**

Mayor Kavanagh reported meeting with GPEC's CEO Chris Camacho to discussed GPEC resources available to the Town along with assistance attracting businesses and he had noted that he enjoyed working with Scott Cooper. Mayor Kavanagh stated she had also attended a MAG update meeting and was informed of some legislature bills including transferring transportation sales tax money from MAG to help support the Arizona Department of Revenue. Mayor Kavanagh reported that earlier in the day she had presented the "State of the Town" report today at the Chamber of Commerce breakfast and that the video would be shown on the Town's website in the near future. She indicated that this was placed in the economic development report because the State of the Town is a presentation of all town accomplishments and future plans and these are what potential residents and business owners will be looking at to decide if this town is the place for them.

ii) **PRESENTATION BY MCSO CAPTAIN DAVID LETOURNEAU REGARDING LAW ENFORCEMENT'S USE OF BODY CAMERAS AND CHANGE IN DEPUTIES' SHIFT SCHEDULE HOURS.**

Captain Letourneau utilized a PowerPoint presentation (available on-line and in the office of the Town Clerk) and pointed out the camera equipment had excellent sound and high definition and worn by officers' on their hat, sunglasses or collar using a clip. He explained the reasons for the cameras were transparency, enforcement incidents, and would lessen complaints since incidents were captured on video. Capital Letourneau stated the video had the capability to roll-back two minutes before recording and capture what was said. He stated officers use the "dock and walk" every evening and downloaded recorded video for that day, which places the video in the "Cloud". He added that the Sergeants would select and review for self auditing within the department.

Mayor Kavanagh asked how long the information was stored. Captain Letourneau answered for a misdemeanor it was five years and for a felony, 12 years. Councilmember Yates asked why the officer's used the stop and go video system. Captain Letourneau responded mostly because of battery life. Mayor Kavanagh asked if the videos were kept even if no crime was committed. He answered they were because of a possibility of a complaint or when force issues arises. Mayor Kavanagh inquired about inappropriate footage and Captain Letourneau replied at the official's initial arrival victims could request not to be taped, but voice recording would continue. He added that the suspect did not have a choice and added it was not a requirement for officers to announce that he was videotaping.

Captain Letourneau continued with his presentation stating that staff could review the tapes, makes notes and decided where the video needed to be forwarded to such as the courts or prosecutor who then decides who can review the video. Captain Letourneau pointed out video cameras were not randomly recording juveniles in the high school without a call for service, although the officer at the school had a camera, if needed. Councilmember Yates asked if the crime rate was going up or down in town and Captain Letourneau responded that he did not have crime statistics, but would provide the information to Council. Captain Letourneau commented that crime was not rising in Fountain Hills except for speeding on Saguaro Boulevard.

Mayor Kavanagh asked about FOLIA requests and if there were any regulations as to those who could access the officers' videos. Captain Letourneau answered that staff could only release videos to the County Attorney who can release them to defense attorneys. He believed that access to public records requests had not been completely

addressed, but the Legislature was in discussions and he acknowledged that Senator Kavanagh was a proponent of not allowing these types of requests to be easily accessible. Mayor Kavanagh added her concerns that witnesses to a crime could be put in danger and that the public had expressed concerns if public requests were allowed to be made for the videos of the inside of homes. Captain Letourneau predicted that staff would duplicate policy use in other states as their action plan. Mayor Kavanagh noted that MCSO made their own rules and the Captain agreed.

Vice Mayor Leger asked if officers had the capability to edit film and what safe guards were in place. Captain Letourneau explained neither deputies nor downtown staff had the ability to edit.

Captain Letourneau reported that deputies currently worked three/thirteen hour days per week and he stated that it had been concluded that this schedule was unsafe and too long of a day, so a plan for officers' was to work four/10 hour days per week. He noted that these hours would be safer, less time on the job, and would not alter the Town's contract. Captain Letourneau pointed out that more staff would be available with this new schedule and would add one additional squad. He added that most of the time the Town would have double squads on duty. Captain Letourneau pointed out that before this could happen they needed to add one car and one more Sergeant. Mayor Kavanagh suggested officers on bikes and Captain responded it had been talked about but first deputies would have to be bike trained and certified.

CALL TO THE PUBLIC

D. W. "Will" Williams, a Fountain Hills resident, complimented the Town on the Avenue of the Fountain strolling path, but wanted to point out a safety matter involving the west and east paths not having walkway signage designation to reach the other side and noticed a lot of jaywalking. He also expressed concerns about the Chamber not being current with new technology, policies and procedures along with the need to continually review and upgrade to 2016 liability coverage. Mr. Williams pointed out the lack of validity of vendor's claims, fraud, and the need to update their applications along with checking data bases with neighboring Chambers.

Gordon Pittsenbarger, a Fountain Hills resident of 32 years, thanked Council for addressing issues with the Environmental Fee, but noted his 11 unit condo property was billed at \$396.00 where Target at 25,000 square feet only paid \$36.00. He requested Council look into the fairness of the fee. He continued that the Fire Inspection fee he paid on his condo units was \$165.00 versus Target's \$15.00 and suggested staff reference the Assessor's Records for square footage instead of number of units on a property to be fair. Mr. Pittsenbarger asked when property owners would be refunded by the Town for collected Impact Fees and pointed out state government required the Town to reduce the fee.

Mr. Miller remarked that last week Council gave staff direction to review the Environmental Fee and its guidelines and stated he would be meeting with the Finance Director to discuss. He also mentioned that the Fire Fee was reviewed a few years ago and the fee was reduced at that time from \$35.00 to \$15.00 and evaluated as part of the budget process.

CONSENT AGENDA

AGENDA ITEM #1 - CONSIDERATION OF APPROVING MEETING MINUTES FROM FEBRUARY 4, 2016.

AGENDA ITEM #2 - CONSIDERATION OF APPROVING A SPECIAL EVENT LIQUOR LICENSE APPLICATION FOR THE AMERICAN LEGION POST 58 (ROBERT PUTNAM) FOR THE PROMOTION OF A FUNDRAISER TO BE HELD AT THE AMERICAN LEGION POST, LOCATED AT 16837 PARKVIEW DRIVE, FOUNTAIN HILLS, AZ FROM 10:00 A.M. TO 10:00 P.M. ON THURSDAY, MARCH 17, 2016.

AGENDA ITEM #3 - CONSIDERATION OF APPROVING A FAIR-FESTIVAL LIQUOR LICENSE APPLICATION FOR DANCING APACHE RANCH (EARL ARTHUR PETZNICK, JR.) TO BE LOCATED ALONG THE AVENUE OF THE FOUNTAINS, IN CONJUNCTION WITH THE FOUNTAIN HILLS FINE ART AND WINE AFFAIR, FROM 10:00 A.M TO 5:00 PM DAILY, FROM FRIDAY, MARCH 11, THROUGH SUNDAY, MARCH 13, 2016.

AGENDA ITEM #4 – CONSIDERATION OF APPROVING A SPECIAL EVENT LIQUOR LICENSE APPLICATION FOR FOUNTAIN EVENTS, INC. (SAM COFFEE) FOR THE PROMOTION OF A FUNDRAISER TO BE HELD AT FOUNTAIN PARK, LOCATED AT 12925 SAGUARO BOULEVARD, FOUNTAIN HILLS, AZ, IN CONJUNCTION WITH THE ST. PATRICK’S DAY CELEBRATION, FROM 10:00 A.M. TO 7:00 P.M. ON SUNDAY, MARCH 13, 2016.

AGENDA ITEM #5 – CONSIDERATION OF APPROVING A BUDGET TRANSFER IN AN AMOUNT UP TO \$1,500.00 FROM THE GENERAL FUND TO PREVENT FOR LOGISTICAL SUPPORT OF THE FOUNTAIN HILLS MUSIC FEST.

AGENDA ITEM #6 – CONSIDERATION OF APPROVING A BUDGET TRANSFER IN THE AMOUNT OF \$20,000 FROM THE SPECIAL REVENUE FUND TO THE TOURISM FUND RELATING TO THE GRANT RECEIVED FROM THE ARIZONA OFFICE OF TOURISM (AOT).

AGENDA ITEM #7 – CONSIDERATION OF APPROVING A COOPERATIVE PURCHASING AGREEMENT WITH PFM ASSET MANAGEMENT, LLC, IN THE CUMULATIVE AMOUNT OF \$67,200, FOR INVESTMENT MANAGEMENT SERVICES.

Councilmember Yates **MOVED** to approve the Consent Agenda as listed and Councilmember DePorter **SECONDED** the motion.

A roll call vote was taken with the following results:

Mayor Linda Kavanagh	Aye
Councilmember Brown	Aye
Councilmember Nick DePorter	Aye
Councilmember Cecil Yates	Aye
Councilmember Cassie Hansen	Aye
Councilmember Alan Magazine	Absent
Vice Mayor Henry Leger	Aye

The motion **CARRIED UNANIMOUSLY** (6-0), by those present.

REGULAR AGENDA

AGENDA ITEM #8 - CONSIDERATION OF A REQUEST TO PLACE A PLAQUE HONORING CARLOS HADAWAY AT THE FOUNTAIN HILLS VETERANS MEMORIAL OR OTHER TOWN PROPERTY LOCATION.

Grady Miller explained the Town had received a request for approval to place a plaque honoring Fountain Hill's resident Carlos Hadaway at the Veterans Memorial location. A letter from Sandi Thompson, Chair of the Public Art Committee, supported the request as Mr. Hadaway was a veteran and significantly contributed to the town and its history. He indicated that Sam Coffee, President of Fountain Hills Veterans Memorial was present this evening and also supported the plaque with the following conditions:

- i) The Committee would have final approval as to the size and layout of the plaque.
- ii) The Committee would select the location for mounting the plaque keeping with its vision of the plaza.

- iii) The Committee would only approve one plaque because Mr. Hadaway made significant contribution to the memorial and warrants recognition.

Mr. Miller pointed out that by approving this request it could create similar requests in the future and expressed concerns that it might change the appearance of the grounds and the original intent. He added that an alternative would be to display the plaque at Town Hall or another prominent location.

Sam Coffee, President of the Fountain Hills Veterans Memorial and a Fountain Hills resident, addressed the Council and spoke in support and mentioned various drawings that Mr. Hadaway had contributed to the Town and Veterans Memorial. He added because of Mr. Hadaway's numerous contributions this request was unique and the organization would not accept other requests for plaques unless they had made a very large contribution to the construction and maintenance of the memorial. He continued that this was timely since Mr. Hadaway had a brain tumor, had undergone surgery, and was taking radiation and chemo therapy. Mr. Coffee stated he was doing well, but it was unclear as to his prognoses and by moving forward this would allow him to see the plaque and receive well deserved recognition.

Mayor Kavanagh asked if there were any speaker cards and Town Clerk Bender responded that there were two.

Jack Combs spoke in support of the plaque for his friend and acknowledged additional contributions Mr. Hadaway had made in the community.

Honorary Consul to El Salvador Enrique Melendez Fountain Hills resident and former Councilmember expressed his respect for Mr. Hadaway and spoke in support of the plaque. He acknowledged the Town Council and many others for their service and mentioned the attendance of his wife who also felt this was a very important project.

Mayor Kavanagh acknowledged that the Town had received a painting of the Grand Canyon from Mr. Hadaway and it hangs in the Town Hall stairwell.

Councilmember Brown **MOVED** to recommend approval of the plaque placement and Councilmember Hansen **SECONDED** the motion. The motion **CARRIED UNANIMOUSLY** (6-0, by those present).

AGENDA ITEM #9 – CONSIDERATION OF RESOLUTION 2016-04, ESTABLISHING THE FOUNTAIN HILLS BUILDING SAFETY BOARD OF APPEALS, ADOPTING BYLAWS FOR ITS GOVERNANCE, AND APPOINTING ITS MEMBERS.

Grady Miller explained that the Town had received an application to appeal a Building Code interpretation (International and/or Universal Building Codes) by the Town's Building Official to be heard by the Town's board of appeals, but the Town currently does not have one seated to hear building or fire code related issues. Staff is requesting to establish a Board of Appeals, adopt its by-laws and appoint members to serve. Mr. Miller stated that the Town's Chief Building Official Jason Field and Director of Development Services Paul Mood are in attendance and available to answer questions.

No speaker cards were submitted.

Mayor Kavanagh **MOVED** to approve Resolution 2016-04 and to appoint Mark Dohrmann, William Christenson, Thomas Johnston, Wayne Delaware and Michael Lister, with each member to serve a three-year term on the Board of Appeals beginning February 18, 2016 and appointing Leland Yoder, John Bercel and John French as alternates, with each alternate appointee to serve a three-year term beginning February 18, 2016. Town Councilmember Brown **SECONDED** the motion, which **CARRIED UNANIMOUSLY** (6-0), by those present.

AGENDA ITEM #10 – DISCUSSION WITH POSSIBLE DIRECTION TO STAFF RELATING TO ANY ITEM INCLUDED IN THE LEAGUE OF ARIZONA CITIES AND TOWNS WEEKLY LEGISLATIVE BULLETIN OR RELATING TO ANY ACTION PROPOSED OR PENDING BEFORE THE STATE LEGISLATURE.

Mr. Miller stated that recently Council outlined a process allowing members to identify any legislation item in the bulletin to be discussed at a Council meeting by notifying staff in advance using email so notification could be made to the other Councilmembers. He added that Vice Mayor Leger had requested to discuss two items but Councilmembers had not been notified in advance. Mayor Kavanagh pointed out that some Councilmembers may not have had a chance to review the bulletin and that was the intent for advance notice and the process. Mr. Miller apologized that he did not see her email concerning the rental tax that had moved on to the “Committee on the Whole” and noted the Town had lost the opportunity to weigh-in. Mayor Kavanagh knew of no further updates on this bill.

Vice Mayor Leger pointed out the two bills he requested had previously been discussed by Council. He stated that Senate Bill SB1257 addressed miss conduct involving weapons in public places and prohibited cities and towns from restricting fire arms from public buildings carried by concealed weapons permit holders unless screening devices or security personal were in place. He noted previously because of cost the Town and League had opposed the bill.

Vice Mayor Leger addressed Senate Bill 1266 (also having to do with fire arms), a repeat bill from last year containing various penalties to political subdivision that had adopted an ordinance that was in conflict with the state preemption on fire arms such as fines, termination of office and law suits. He added the League also opposed this bill. He requested staff track both bills with possible Council discussion regarding writing a letter in opposition.

Mayor Kavanagh spoke in support of Senate Bill 1257 noting that it had gone through major changes since last time as many in the Legislature had issues with the bill since everyone in Arizona could carry a gun and the bill opposed anyone walking into a building including people with concealed carry permits. She stated that the bill was altered to allow those who held a concealed carry permit to be exempted as those permits require weapons training, back-ground checks and renewal guidelines. Mayor Kavanagh noted if this bill passed there would be no cost to the Town.

Councilmember Yates asked if a vote of the Council was needed to approve or oppose this bill noting that as it stood, he supported the bill.

Vice Mayor Leger stated that this was a town issue and that he had heard from the parents of children expressing they did not like their children around someone carrying a concealed weapon in our Town buildings and facilities. He also mentioned Town staff and Law Enforcement was uncomfortable with concealed weapons brought into buildings and Council meetings. Vice Mayor also commented that in its latest form the League still opposed the bill.

Vice Mayor Leger **MOVED** to oppose SB1257 and request that staff send a letter of opposition. The motion **DIED** for lack of a second.

In response to a question from Councilmember Brown, Mayor Kavanagh responded that at the State Capital a metal detectors and guards were on site. Councilmember Brown stated he had mixed emotions; however, because of the news reports that someone with a concealed weapon had saved lives he noted it can be a good thing, and he commented that he planned to get a permit to carry as it was a citizen’s right.

AGENDA ITEM #11 - COUNCIL DISCUSSION/DIRECTION TO THE TOWN MANAGER

Items listed below are related only to the property or (i) placing such items on a future agenda for action or (ii) directing staff to conduct further research and report back to the Council.

- (i) None.

AGENDA ITEM #12- SUMMARY OF COUNCIL REQUESTS AND REPORT ON RECENT ACTIVITIES BY THE MAYOR, INDIVIDUAL COUNCILMEMBERS, AND THE TOWN MANAGER.

Mayor Kavanagh reported that the Mayor's Youth Council spent the day at the Capital with Senator John Kavanagh and shadowed the Senator as he spoke to reports, negotiated with lobbyist, and experienced a caucus meeting along with a committee hearing on bills. The Youth Council had lunch on the lawn, courtesy of ASU, and then travelled to MCSO headquarters for a tour with their Community Relations Director James Estrada who explained MCSO's history, tent city, the jail system, as well as the structure of the new building as command center and 911 dispatch center. Mayor Kavanagh thanked Sheriff Arpaio and his staff, Senator Kavanagh, and the MYC chaperones, Kaylin Pearce, as well as town staff Heather Ware, MYC coordinator, and Anjelica Giardino. Mayor Kavanagh announced that she was participated again as a referee at the robotics tournament and noted that several schools participated in the day-long event for future engineers.

Mayor Kavanagh congratulated Town resident, Peter Voyny for a successful 3rd Annual "Concours in the Hills" event that included sponsor Barrett Jackson and former race car driver Bob Bondurant. The event featured 500 exotic cars and the Town was featured on Channel 10 and other outlets including car enthusiast publications. She stated that all proceeds would go to the Boys and Girls Club. Mayor mentioned the "Love in the Hills" event and thanked Stephanie Bjorkman, owner of Sami's for the good publicity on Channel 5 for the Town regarding this outstanding event that showcased the beauty of Fountain Hills.

AGENDA ITEM #13 – ADJOURNMENT (Regular Session)

Councilmember Yates **MOVED** to adjourn the meeting at 7:58 p.m. and Councilmember DePorter **SECONDED** the motion, which **CARRIED UNANIMOUSLY** (6-0), by those present.

The Mayor indicated that the Council would now reconvene the Executive Session in the Fountain Conference Room.

EXECUTIVE SESSION (continued)

The Mayor reconvened the Executive Session at 8:05 p.m. in the Fountain Conference Room – 2nd floor.

AGENDA ITEM #2 – ADJOURNMENT

The Executive Session was adjourned without objection at 8:44 p.m.

TOWN OF FOUNTAIN HILLS

By _____
Linda M. Kavanagh, Mayor

ATTEST AND
PREPARED BY:

Bevelyn J. Bender, Town Clerk

CERTIFICATION

I hereby certify that the foregoing minutes are a true and correct copy of the minutes of the Executive Session held in the Fountain Conference Room - 2nd Floor, and Regular Session held by the Town Council of Fountain Hills in the Town Hall Council Chambers on the 18th day of February, 2016. I further certify that the meeting was duly called and that a quorum was present.

DATED this 3rd day of March 2016.

Bevelyn J. Bender, Town Clerk